

## Soldier Denied Right to Tort Claim on U. S.

Richmond, Va., Aug. 26 (AP).—The United States Fourth Circuit Court of Appeals today split two-to-one to reverse the Charlotte



Dobie

(N. C.) District Court and rule that a soldier cannot sue the Government under the Federal Tort Claims Act.

"As far as we know," the majority opinion noted, "no Federal Appellate Court has

decided this question."

Circuit Judge Armistead M. Dobie and District Judge Harry E. Watkins joined to reverse the trial court, which had awarded damages to Welker B. Brooks and the estate of Arthur L. Brooks. One had been killed, the other seriously injured, when the car in which they were riding while on furlough was struck by an Army truck driven by a civilian employe near Fayetteville, N. C.

Senior Circuit Judge John J. Parker, dissented from the majority opinion, declaring that:

"The principal question in the case is whether the court shall read into the act an exception excluding soldiers from the right to recover under its provisions. I see no basis for reading such an exception into the act . . ."

The majority opinion declared the law definitely excludes soldiers. It asserted: "If . . . Congress did intend to include soldiers within



Parker

the scope of the act, every dictate of common sense would seem to require that Congress would manifest this intention not by inference or implication but, on so important a matter, by emphatic, positive ex-

pression to that effect, in words so clear that they could readily be understood even by Federal judges."

At one point the majority opinion made this observation:

"It is easy to conjure up the unfortunate results, including the subversion of military discipline, if soldiers could sue the United States for injuries incurred by reason of their being in the armed

service of their country."